

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
Civil No. 06-3123(DSD/JJG)

Pamela Dawn Thorne, et al.,

Plaintiffs,

v.

**ORDER**

Wyeth, et al.,

Defendants.

This order is in response to the January 2, 2008, order of the United States Judicial Panel on Multidistrict Litigation ("Panel") deferring its decision to transfer the underlying litigation to the Eastern District of Arkansas for inclusion in MDL No. 1507. In its order, the Panel deferred enforcement of its decision for sixty days to "provide the district judge with the opportunity to revisit, at his sole discretion, the decision allowing the amended notice of removal."

This action was initially filed in state court. Although complete diversity did not exist, defendants Pfizer, Inc., Pharmacia & Upjohn Company LLC, Pharmacia Corporation and Greenstone Ltd. (collectively "Pfizer defendants") removed the action to federal court under the "mass action" provision of the Class Action Fairness Act ("CAFA") that does not require complete diversity for federal jurisdiction. 28 U.S.C. § 1332(d)(11). On April 11, 2007, the Panel issued an order conditionally

transferring this action to the Eastern District of Arkansas pursuant to 28 U.S.C. § 1407 for consolidated pretrial proceedings. On May 3, 2007, however, the Panel vacated that order because CAFA requires consent from a majority of plaintiffs, and plaintiffs had filed an opposition. 28 U.S.C. § 1332(d)(11)(C)(I).

On November 14, 2006, the only nondiverse defendant was removed from the litigation, and on December 12, 2006, the Pfizer defendants moved for leave to amend their notice of removal to include complete diversity pursuant to 28 U.S.C. § 1332(a) as an alternative basis for federal jurisdiction. On February 26, 2007, the magistrate judge denied the Pfizer defendants' motion. The Pfizer defendants appealed the magistrate judge's order, and on May 15, 2007, the court<sup>1</sup> sustained the Pfizer defendants' objections and granted them leave to amend their notice of removal. Thereafter, on May 24, 2007, the Panel issued an order conditionally transferring this case to the Eastern District of Arkansas. Plaintiffs moved to vacate that order, and the Panel issued its January 2, 2008, order in response.

After careful consideration, the court, for the reasons stated in its July 19, 2007, order denying plaintiffs' motion to vacate

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<sup>1</sup> The judge at the time was United States District Court Judge Paul A. Magnuson. Judge Magnuson recused on June 4, 2007, and the case was transferred to the undersigned judge.

the May 15, 2007, order, respectfully declines the Panel's invitation to revisit the May 15, 2007, order.

Dated: January 24, 2008

s/David S. Doty

David S. Doty, Judge

United States District Court